



Background Information for Conference call with John Filippelli

I. PSD Commencement of Construction Requirements:

(From July 1, 1978 memo from Director of Stationary Source Enforcement to David Key Region V)

The Project must:

- 1) Obtained and continue to hold all necessary preconstruction approvals required under the applicable SIP
 - a. In the case of the Arecibo Resource Recovery Facility (Arecibo RRF) and the applicable Puerto Rico SIP, these approvals include:
 - i. The EPA PSD Permit,
 - ii. The EQB 201 – Emission Source Location Approval, and
 - iii. The EQB 203 - Emission Source Construction Permit
- 2) A source must also satisfy one of two additional requirements in order to commence construction. A source must either:
 - a. Begin a continuous program of physical on-site construction or
 - b. Enter into a contractual obligation to undertake a program of on-site construction to be completed within a reasonable time.
- 3) EPA has interpreted physical on-site construction to refer to placement, assembly, or installation of materials, equipment, or facilities which will make up part of the ultimate structure of the source. In order to qualify, these activities must take place on-site or must be site specific. Placement of footings, pilings and other materials needed to support the ultimate structures clearly constitutes on-site construction.
- 4) In order to satisfy the commence construction requirements, a contractual obligation must be a site specific commitment. Contracts for work on footings, pilings, and other site specific materials and equipment will clearly satisfy the requirement while contracts for site clearing and excavation will not.

II. Summary of Arecibo Resource Recovery Facility Construction Activities:

- 1) In December 2016, the Arecibo RRF entered into a contract for the fabrication of the project foundation piles. The Project requires concrete piles of a size, configuration and quantity not carried in stock by pile fabricators.
- 2) Fabrication of the piles began on December 22, 2016 and continues to date.
- 3) The Engineering Procurement and Construction (EPC) contract negotiations with SNC Lavalin and the Interlink Group for the construction of the Project are in an advanced stage and are on track for completion by February 28, 2017.
- 4) These binding agreements include a Limited Notice to Proceed (LNTP), followed by a full Notice to Proceed (NTP). The LNTP portion of the EPC contract scope includes the onsite driving of test piles to confirm the site's geotechnical properties. The piles driven as part of this geotechnical investigation program will remain as part of the Project's permanent foundation.
- 5) The EPC contracts will be executed and the LNTP work will commence in March 2017.
- 6) The LNTP work is limited due to the fact that the Project is at the end of a 2+ year Rural Utilities Service (RUS) NEPA EIS review and awaiting the issuance of the final Record of Decision (ROD). The Notice of Availability of the Project FEIS was published in the Federal Register on February 3, 2017. The onsite work that can be done prior to the issuance of the ROD is limited by NEPA regulation. In addition to the initial



onsite pile driving and ongoing offsite pile fabrication work, the Project will undertake the demolition of the remaining on-site structures under the LNTP.

- 7) Shortly after the issuance of the ROD, expanded foundation work, along with clearing, grubbing, site filling and roadwork, will commence.
- 8) The referenced pile fabrication and EPC contracts are binding and their cancellation would result in the loss of:
 - a. The value of the fabricated and driven piles, in addition to a cancellation fee; and,
 - b. All LNTP work completed prior to the cancelation; and,
 - c. An early cancelation penalty payment of [%] of the remaining LNTP value.
- 9) The Project has received and continues to maintain all required preconstruction permits under the SIP, including:
 - a. The EPA PSD Final Permit, which was issued on May 19, 2014 and expires on April 10, 2017
 - b. The EQB 201 – Emission Source Location Approval, which was issued on December 16, 2014, and
 - c. The EQB 203 - Emission Source Construction Permit, which was issued on December 16, 2014

We would like EPA confirmation that the implementation of the onsite construction, offsite fabrication and contractual engagements constitutes commencement of construction under the PSD regulations.